

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DONNA KING,)	
)	
Plaintiff,)	
)	
v.)	No. 4:17 CV 2479 CDP
)	
BANK OF AMERICA N.A., et al.,)	
)	
Defendants.)	
)	

MEMORANDUM AND ORDER OF STAY

This matter is before me on motions for summary judgment filed by defendants. In this action, plaintiff alleges that defendants Bank of America and Experian violated the Fair Credit Reporting Act, 15 U.S.C. § 1681, in connection with a delinquent Bank of America credit card account. Plaintiff alleges that her now ex-husband opened this account in her name fraudulently and without her knowledge and consent. Plaintiff alleges that Bank of America failed to conduct a reasonable investigation when she disputed that the account was hers, that Bank of America did not appropriately report the results of its investigation about the account to the credit reporting agency Experian, that Experian failed to conduct its own reasonable investigation into the accuracy of the account information, and that Experian falsely reported information on her credit report that she owed a debt to Bank of America

when in fact she did not.

Bank of America has sued plaintiff in state court for the outstanding balance on the credit card. That case, *Bank of America, N.A. v. Donna L. King*, Case No. 15-CM-CC00101, currently pending in Camden County, Missouri, is scheduled for a pretrial conference on May 9, 2019. In that case, plaintiff disputes that she is liable for the outstanding account balance, claiming, as here, that she never opened the account. In this case, both defendants have asserted as an absolute defense to plaintiff's claims the accuracy of the reported information. *See Anderson v. EMC Mortgage Corp.*, 631 F.3d 905, 909 (8th Cir. 2011). Whether plaintiff actually owed the debt (and thereby the accuracy of the reported information) is about to be decided in state court. As such, the Court concludes that this case should be stayed pending the outcome of the state court action. Because the outcome of the state court case will necessarily impact the briefing of the summary judgment motions, the Court will deny without prejudice the pending motions for summary judgment subject to being refiled, if necessary, at the conclusion of the state court action.


Accordingly,

IT IS HEREBY ORDERED that this case is stayed pending further Order of the Court, and this case is removed from the May 13, 2019 trial docket.

IT IS FURTHER ORDERED that the pending motions for summary judgment [66, 68] are denied without prejudice to being refiled as set forth above.

IT IS FURTHER ORDERED that the parties shall file a joint memorandum within 10 days after the case of *Bank of America, N.A. v. Donna L. King*, Case No. 15-CM-CC00101, currently pending in Camden County, Missouri, has been resolved at the trial court level either by verdict, on motion practice, or through settlement. The joint motion shall advise the Court on the outcome of the case and indicate whether the plaintiff intends to proceed with the prosecution of the case and, if so, shall include a joint proposed schedule for summary judgment motions, if applicable, and a proposed trial date.

IT IS FURTHER ORDERED that the parties shall file a joint status report in 90 days advising the Court on the status of the state court litigation, and shall continue to file joint status reports every 30 days thereafter until the state court case is concluded and the parties have so advised the Court by joint memorandum as set forth above.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 13th day of February, 2019.